IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

O R D E R

S.B. CIVIL WRIT PETITION NO.1150/1994
(Nek Sharma & Ors. Vs. State & Ors.)

Date of order : 26.10.2007

P R E S E N T

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. S.L. Jain, for the petitioners.
Mr. S.N. Tiwari, Dy. Govt. Advocate.

Heard learned counsel for the parties.

By way of filing the present writ petition, the petitioners have prayed for directions to the respondents for providing appointment on the post of LDC.

According to the facts narrated in the writ petition, the petitioners were appointed on urgent temporary basis in the State Insurance & General Provident Fund Department, Govt. of Rajasthan vide order Annexures-1 to 5 respectively. They were appointed purely on temporary basis for a period of three months and their appointment was extended

further for a period of six months. It is further submitted that after expiry of the period stipulated in the appointment orders, the period was not extended and the petitioners were thrown out of the job.

Learned counsel for the petitioners prayed that the petitioners are not in service since 1987 though they worked with the department for a considerable period. According to the learned counsel for the petitioners similarly situated persons preferred writ petition before this Court and the same was dismissed but finally the Hon'ble Supreme Court while disposing of SLP gave direction to the department for sympathetic consideration. Therefore, in view of the aforesaid directions given by Hon'ble Supreme Court, the respondents may kindly be directed to consider the case of the petitioners also sympathetically for providing appointments against the vacancies which were in existence at the time of filing the writ petition.

Learned Dy. Government Advocate vehemently opposed the prayer and contended that the petitioners were provided appointment purely on temporary basis and by aflux of time, their appointments come to end. Further, it is submitted that there is no question of regularization of the services of the petitioners on the post of LDC in view of the fact that according to the Rules of 1957, the appointment can be made by two

methods; one through selection by Rajasthan Public Service Commission and second through promotion amongst Class-IV employees. It is also submitted that petitioners were not substantively appointed nor they were provided appointment after the year 1986 and their terms of appointments came to end after expiry of the period as stipulated in the appointment order itself. It is vehemently submitted that this writ petition has been filed in the year 1994 whereas admittedly the services of the petitioners came to end in the year 1986 and no reason whatsoever has been given by the petitioners for delay and latches, therefore, this writ petition deserves to be dismissed on the ground of delay and latches only.

With regard to the contention of the learned counsel for the petitioners that for considering their case in accordance with the directions issued by Hon'ble Supreme Court, it is pointed by learned Dy. Govt. Advocate that the directions were issued by Hon'ble Supreme Court for sympathetic consideration of those incumbents who were before Hon'ble Supreme Court and their cases were considered as per the directions of Hon'ble Supreme Court and the directions given by Hon'ble Supreme Court were given effect to in its true spirit. It is further submitted that there is no question of absorption and appointment of the petitioners because they worked only for some time on urgent temporary basis and they are not in service

after 1986.

I have considered the rival submissions made by the learned counsel for the payments.

First of all this writ petition deserves to be dismissed only on the ground that the petitioners were appointed on urgent temporary basis with the stipulation of period and their appointments came to end by aflux of time. Similarly the regularization/ appointments on the post of LDC is to be made in accordance with the Rules of 1957. Admittedly, the petitioners were appointed only on urgent temporary basis for a fixed period, therefore, no right is created in favour of the petitioners for providing appointment or regularization of their services after expiry of the period as stipulated in the order of appointment itself. The petitioners are not entitled to get any relief on any of the ground raised by them in the writ petition. Further. this writ petition has been filed in the year 1994 and the services of the petitioners came to end in the year 1986 and no explanation whatsoever has been given by the petitioners for delay of near about eight years.

Accordingly, the writ petition is dismissed.

(GOPAL KRISHAN VYAS), J.

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